

Office Consolidation of By-Law 97-77



The Corporation of the
Municipality of Clarington
By-Law 97-77

Being a by-law to provide for the registration of a primary dwelling unit having an Apartment-in-House.

Passed, by Council, on: April 25, 1997

Consolidated as of: March 3, 2020

Amendments:

Amending By-Law	Date	Amendment Details
98-75	May 11, 1998	Change date in paragraph 4.2(v)
2010-142	December 20, 2010	Section 3.4 of By-law 97-77 is deleted and replaced with: "the current non-refundable application fee will be paid upon submission of an application for registration. The current registration fee will be paid upon issuance of the certificate of registration for the Apartment-in-House".
2014-104	September 29, 2014	Section 3.4 is amended to outline the application fee process.
2020-011	March 3, 2020	Remove "lawful" from definition of "Apartment-in-House; and add new Section 3.2.

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Being a by-law to provide for the registration of a primary dwelling unit having an Apartment-in-House.

Whereas Council of the Municipality of Clarington has passed an amending zoning by-law to regulate Apartments-in-Houses;

Whereas the Municipal Act, R.S.O., 1990, c. M45, as amended, authorizes the municipality to pass by-laws providing for the registration of Apartments-in-Houses; and,

Whereas the Council of the Municipality of Clarington deems it desirable to pass a by-law to require registration of Apartments-in-Houses;

Now therefore the Council of the Corporation of the Municipality of Clarington enacts as follows:

1 Title and Purpose of By-Law

1.1 Title of By-law

This By-law may be cited as the "Apartments-in-Houses Registration By-law".

1.2 Purpose of By-law

The purpose of this By-law is to provide for the registration of a primary dwelling unit having a Apartment-in-House.

2 Definitions

2.1 For the purposes of this By-law, the following definitions shall apply:

"Apartment-in-House" shall mean a lawful second dwelling unit contained within a permitted residential single detached or semi-detached dwelling created through converting part of, or adding onto an existing dwelling unit. The Apartment-in-House shall be used or intended to be used by one or more persons, and shall contain sanitary facilities, kitchen and a heating system. The Apartment-in-House shall have a private entrance from outside the building or from a common hallway or stairway inside the building. For the purposes of this By-law, an "Apartment-in-House" shall not be a "Converted Dwelling" and/or a "Duplex Dwelling".

"Dwelling, Converted" shall mean a single detached dwelling erected prior to the date of passing of the former Town of Newcastle Comprehensive Zoning By-law 84-63, which has been or may be converted by means of partitioning so as to provide therein not more than three dwellings each of which shall have a total floor area of not less than 50 square metres.

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"Dwelling, Duplex" shall mean the whole of a building that is divided vertically or horizontally into two separate dwellings, each of which has an independent entrance either directly from the outside or through a common vestibule.

"Dwelling, Semi-Detached" shall mean a building separated vertically into two separate dwelling units, connected by a common wall above ground or connected underground by footing and foundation, each of which has an independent entrance directly from the outside of the building.

"Inspector" shall include Building Inspectors, Municipal Law Enforcement Officers or Fire Prevention Officers.

"Owner" shall mean the person or persons having title to the primary dwelling unit and shall include a Corporation.

"Primary Dwelling Unit" shall mean the permitted residential single detached or semi-detached dwelling unit which has an Apartment-in-House located within it.

"Registrar" shall mean the Director of Planning and Development or his/her designate.

3 Application

3.1 Application of By-law

The provisions of this By-law shall apply to every owner of a dwelling which has a lawful Apartment-in-House within the primary dwelling unit and/or every owner of a dwelling who wishes to establish a lawful Apartment-in-House within the primary dwelling unit.

3.2 Registration

No person shall fail to register an Apartment-in-House.

3.3 Submission of Application

Every owner referred to in Section 3.1 shall complete an application for registration and shall submit it to the Municipality of Clarington Planning Department.

3.4 Owners' Authorization

Where there is more than one owner of the land subject of the application, only one owner shall be considered the applicant. The other land owners shall complete the authorization form attached to the registration application. The application shall not be considered completed until such time as authorization forms from all owners of the subject land have been submitted.

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3.5 Application Fee

Commencing January 1, 2015, a non-refundable application fee will be paid upon submission of an application for registration in accordance with the Municipality's Fee By-law.

4 Eligibility of Registration

4.1 The Municipality shall register a primary dwelling unit which has a new Apartment-in-House provided the applicant's Apartment-in-House satisfies all of the following conditions:

- i) compliance with the Municipality's Comprehensive Zoning By-law, as amended;
- ii) compliance with the Ontario Fire Code where applicable; and
- iii) compliance with the Ontario Building Code where applicable.

4.2 Notwithstanding Section 4.1, any primary dwelling unit having an Apartment-in-House which existed prior to April 28, 1997 shall be registered provided the applicant's Apartment-in-House satisfies all of the following conditions:

- i) compliance with the Municipality's Comprehensive Zoning By-law, as amended;
- ii) compliance with the Ontario Fire Code where applicable;
- iii) compliance with the Ontario Building Code where applicable; and
- iv) that application for registration is made on or before June 30, 1998, or an application for registration is made by a subsequent owner within one year from date of possession.

4.3 Upon complete compliance with Section 4.1 or Section 4.2 of this By-law, a Certificate of Registration shall be issued by the Municipality of Clarington. Such certificate shall be site specific to that primary dwelling unit.

5 Refusal and/or Revocation of Registration

5.1 The Registrar may refuse to register any primary dwelling unit having an Apartment-in-House which does not meet the requirements of this By-law.

5.2 The Registrar may revoke the registration of any primary dwelling unit having an Apartment-in-House which, at any time after registration, ceases to meet any of the requirements set out in this By-law.

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- 5.3 Where the Registrar revokes registration, notification shall be provided to the Owner of the primary dwelling unit of such revocation, with a brief explanation of the reason for the revocation. Such notice may be sent by regular mail.
- 5.4 If registration is revoked as per Section 5.2 of this By-law, and an owner wishes to reapply for a Certificate of Registration, such application is considered a new application for the purposes of this By-law.
- 5.5 The decision of the registrar to refuse or revoke registration is subject to an Appeal to the Ontario Court (General Division) and the decision of the Court is final.

6 Non-Compliance with By-Law

6.1 Responsibility for Compliance with this By-law

- 6.1.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.
- 6.1.2 The granting of registration does not relieve the owner from compliance with the requirements of this By-law or any other applicable law.

6.2 Enforcement - Entry and Inspection

- 6.2.1 For the purposes of conducting an inspection to determine compliance with this by-law, an Inspector may at all reasonable times and upon producing proper identification, enter upon land without a warrant.
- 6.2.2 Except under the authority of a search warrant, an inspector shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupant, having first informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

6.3 Obstruction

- 6.3.1 No person shall obstruct or attempt to obstruct an Inspector or any person assisting an Inspector in carrying out an inspection under this By-law.

7 Administration

7.1 Registrar

- 7.1.1 The Administration of this By-law shall be undertaken by the Registrar or his/her designate.

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8 Validity

- 8.1 Should any part of this By-law be declared by a Court of competent jurisdiction to be invalid in part or in whole, the validity of the other provisions of this By-law shall not be affected thereby, the intent of Council being that each provision of the By-law shall be determined to be separately valid and enforceable to the fullest extent permitted by law.

9 Force and Effect

This by-law shall come into force and effect on the date of the passing hereof, subject to the provisions of Section 207.3 of the Municipal Act, R.S.O. 1990 c. M45.

By-law read a third time and finally passed this 28th day of April, 1997.